



**CALIFORNIA WORKFORCE INVESTMENT BOARD
ISSUES AND POLICY SPECIAL COMMITTEE
MEETING NOTICE**



**July 29, 2010
1:00 p.m. to 3:00 p.m.**

**Covell Building
777 12th Street, 2rd Floor
Sacramento, CA 95814**

Arnold
Schwarzenegger
Governor

Barbara Halsey
Executive Director

Teleconference Information

This meeting will be conducted at the physical location above and can also be joined online by clicking [here](#).

**Call-in toll-free number (Verizon): 1-866-746-2471 (US)
Attendee access code: 780 903 6**

Mission Statement

“Our mission is to provide advice, counsel and recommendations to the full California Workforce Investment Board that improve Local Workforce Investment Boards’ ability to provide world-class services to constituents; and to provide overall strategic recommendations to the full Board in identifying the most critical priorities.”

AGENDA

- I. Welcome and Opening Remarks**
- II. Action Items**
 - **Approval of May 18, 2010 Meeting Summary**
 - **Local Workforce Investment Board Recertification Policy**
A revision that would expand the recertification process to include measures of achieving State Plan objectives and support of State Board initiatives, such as sector strategies.
 - **Exemplary Performance Incentive Award Policy**
A revision to redefine the term “exemplary” as it relates to Local Workforce Investment Boards’ performance measures, and would therefore affect the incentive award methodology.
 - **High Concentration of Youth Grant Policy**
A revision to redefine the eligibility criteria for local workforce investment boards to apply for these grants.

III. Updates

- **DOL Extension of State WIA Strategic Plan for Program Year 2010-2011**
- **Comments Received - Eligible Training Provider List (ETPL) Initial Eligibility Determination for Postsecondary Educational Institutions and Entities Carry Out Apprenticeship Programs**
- **Waiver To Use Work Readiness Indicator (Summer Youth Activities)**
- **Waiver to Allow Program Design Flexibility (Summer Youth Activities)**

IV. Public Comment

V. Other Business

IMPORTANT NOTICE: This WebEx service includes a feature that allows audio and any documents and other materials exchanged or viewed during the session to be recorded. By joining this session, you automatically consent to such recordings. If you do not consent to the recording, do not join the session.

Meeting conclusion time is an estimate; meeting may end earlier subject to completion of agenda items and/or approved motion to adjourn. In order for the Committee to provide an opportunity for interested parties to speak at the public meetings, public comment may be limited. Written comments provided to the Committee must be made available to the public, in compliance with the Bagley-Keene Open Meeting Act, §11125.1, with copies available in sufficient supply. Individuals who require accommodations for their disabilities (including interpreters and alternate formats) are requested to contact the California Workforce Investment Board staff at (916) 324-3425 at least ten days prior to the meeting. TTY line: (916) 324-6523. Please visit the California Workforce Investment Board website at <http://www.cwib.ca.gov> or contact Daniel Patterson for additional information.

I. Welcome and Opening Remarks

II. Action Items:

- **Approval of May 18, 2010 Meeting Summary**
- **Review and Recommend Revision to the Local Workforce Investment Board Recertification Policy**
- **Review and Recommend Revision of the Exemplary Performance Incentive Award Policy**
- **Review and Recommend Revision of the High Concentration of Youth Grant Policy**

**Issues and Policies Committee
Meeting Summary
May 18, 2010**

The Issues and Policies Special Committee met on Tuesday, May 18, 2010 from 1:30 pm to 4:00 pm at the California State University, Sacramento Alumni Center.

The following members were present:

Edward Munoz, Chair	Larry Fortune
Stewart Knox	Elvin Moon
Adam Peck	Stella Premo
Richard Rubin	Audrey Taylor

The following members were absent:

Victor Franco, Co-Chair	Felicia Flournoy
Barry Sedlik	Tim Rainey

Others in Attendance:

Jamil Dada, Board Member
Linda Rogowski, California Workforce Association
Anne McMonigle, California Workforce Association
John Delmatier, Proteus, Inc.
Greg Gibson, EDD Workforce Services Division

CWIB Staff:

Barbara Halsey, Executive Director CA Workforce Investment Board
Doug Sale, Chief of Operations CA Workforce Investment Board
Daniel Patterson, Staff to the Committee
Luis Bermudez, Staff to the Committee
John Williams, Staff to the Committee

I. Welcome and Opening Remarks

Mr. Munoz started the meeting by reading the Committee's mission statement which was approved during the Committee's meeting in January 2010. Mr. Rubin inquired whether the Committee in fact approved or adopted the mission statement and provided his insight regarding the difference of the terms "approved" and "adopted". Mr. Patterson pointed out that the mission statement had been approved by all members of the committee present at the January meeting, as reflected in the January

meeting minutes. There was no further action to revise or modify the mission statement as it was approved previously by the Committee.

II. Action Items

- **Approval of January 27, 2010 Meeting Summary**

Mr. Fortune recommended that the minutes be changed to reflect the mission statement being “adopted” by the Committee. The meeting summary was approved unanimously.

- **Approval of Waiver to Use Rapid Response (RR) Funding for Incumbent Worker Training (IWT)**

Ms. Halsey provided an introduction to the waivers and the recent guidance issued by the Department of Labor (DOL) regarding waivers and WIA Strategic Plan extension for Program Year 2010. She explained further that this waiver would authorize the use of RR funds to be used for the specific purpose of layoff aversion.

The waiver request was approved unanimously by the members.

- **Approval of Waiver to Permit Up to 90 Percent Reimbursement for On-the-Job Training**

Ms. Halsey again provided an introduction and explanation of the waiver. Ms. Halsey also explained the reimbursement amounts are provided on a sliding scale, depending on the size of the business involved in the training. Small businesses receive greater reimbursement, and larger business less reimbursement.

The waiver request was approved unanimously by the members.

- **Approval of Waiver for Eligible Training Provider List (ETPL) Initial Eligibility Determination for Postsecondary Educational Institutions and Entities Carrying Out Apprenticeship Programs**

Mr. Patterson gave an introduction and explanation reasoning for developing the waiver request. The waiver was currently posted on the State Board website for public comment until June 2, 2010. The comments would be provided to the Committee at its next meeting. There was discussion among the members regarding the level of partnership between the local boards and their community college campuses and whether or not this waiver would assist in building that partnership. A member stated that where those partnerships existed, this may help it, where it does not, it may be the impetus to develop one with the community college campus in their community.

One member stated that their area has focused in on particular sectors in their regions and the waiver would not force them to choose the training program at the college campus, but that decision was made with a career counselor/case manager. This waiver would make it easier to list the programs and provides additional choices, but was not a mandatory choice.

The waiver request was approved unanimously by the members.

- **Approval of Incumbent Worker Definition**

Mr. Patterson gave an introduction and explanation of the issue paper presented regarding the definition. Mr. Rubin inquired whether there was urgency regarding the approval of the definition that perhaps input from DOL would be helpful. It was clarified that the approval of the definition was required by DOL in order for them to consider the RR/IWT waiver request. Members discussed various scenarios regarding Incumbent Worker Training and how this definition, if approved by the Committee might affect service delivery to employed workers.

For example, could a worker who feels s/he needs additional training to keep their skills current apply for Incumbent Worker Training individually at the local One-Stop and how would this definition affect the services provided to the client? Would services be provided to that individual as an Incumbent Worker, or would there need to be a contract with the employer? It was pointed out that without a contract with the employer, the local One-Stop would most likely enroll the employee under Adult services and without an Incumbent Worker Training contract with the employer. Mr. Rubin expressed that he thought it important that the definition be approved with the understanding that such a definition could be modified at a later time as needed.

The committee members agreed and the definition was approved unanimously.

III. Discussion

- **Committee Dashboard - American Recovery and Reinvestment Act Expenditure Levels**

The committee was presented with the dashboard as a collection of the Governor's 15 Percent Chart, its notations, a list of discretionary fund projects, and a breakdown of ARRA obligation and expenditure levels as of March 31, 2010.

There was discussion regarding how the various figures correlated. Mr. Rubin suggested that perhaps a pie chart would help make the figures easier to understand.

Ms. Taylor inquired how the committee might have influence or input regarding the Governor's 15 Percent projects. Ms. Halsey explained that the way the Governor

receives input from the Committee, as well as the full State Board, is through Agency Secretary Victoria Bradshaw. While Committee members might not have direct influence over the Governor's decisions, the issues and views discussed in the Committee and State Board are heard and considered by Secretary Bradshaw when making policy decisions. The uses of these funds are also influenced in part by the Legislature. She mentioned use of the funds to support the Project New Start. Ultimately, the Governor's 15 percent projects fall in line with his top priorities of promoting high growth/green industries, industries with a statewide need, and assisting those with barriers to employment.

There was discussion regarding the ARRA expenditure levels. There was some uncertainty regarding how much should be expended by the September 30, 2010 deadline. Ms. Halsey pointed out that based on historical trends regarding expenditures; LWIBs are currently on track to meet the expenditure deadline of September 30, 2010.

- **Additional Assistance Grant Application Process**

Mr. Patterson gave a short overview of the issue regarding the Additional Assistance Grant Application Process. Specifically, members and LWIBs are concerned about the length of time it takes EDD to process an application and award funding. Mr. Patterson informed the Committee that Board staff have reviewed Board policies and EDD directives, and found that the process and timelines related to the application approval process are not a question of board policy, but under the discretion and management of the Employment Development Department (EDD) Workforce Services Branch. Mr. Patterson informed the Committee that in our discussions with their management team, they have agreed to review their internal processes, provide training for regional advisors, and implement changes to expedite their review.

IV. Update

- **WIA State Strategic Plan Extension**

Ms. Halsey provided an update. DOL will grant a unilateral extension to states and include waivers in that extension as well. There were some exceptions such as those granted for the summer youth program: procurement and work readiness for performance beyond the summer program period.

- **WIA Formula Fund Allocations for Program Year (PY) 2010-11**

A copy of the PY 2010 allocations was provided to the members. EDD has published this information in an Information Notice. There was some additional discussion around the amount of total allocations received by the state. A member commented that due to the delay in some of the statistics, it is possible that the State's total allocation should

improve in PY 2012 due to the amount of unemployment occurring this and the previous PY.

- **High Concentration of Eligible Youth Grant Applications**

Mr. Patterson stated that the staff would be updating this policy, due to the types of information being collected in the 2010 Census and provided a status update of these awards to local areas. Mr. Knox suggested that perhaps instead of awarding grants to LWIBs that apply for them, awards could be given to the top five LWIBs with eligible youth, for example. That would streamline the award determination and reduce award time. Staff is working with EDD's Labor Market Information Division to devise a method of aggregating a data source so this new policy can be developed. The staff will provide an update at the next Committee meeting.

- **National Emergency Grant (NEG) Application**

A member gave an overview of his experience regarding the application process for the NEG which Tulare County Workforce Investment Board received an \$8 million dollar grant award. He stated that some of the local areas are working closely together to submit these applications on a much smaller scale and frequency.

Ms. Halsey mentioned that EDD has applied for an ARRA funded On-the Job Training grant through the DOL. There is \$90 million available and EDD, in partnership with the local areas, has submitted an application for \$9 million.

V. Public Comment

There was no public comment.

VI. Other Business

- **Committee Meeting Calendar**

Mr. Rubin provided a press release announcing the California Partnership to Invest in Education and Jobs. The \$7M initiative is funded by the Chevron Corporation invests in education and economic development in California, through nonprofits focused on supporting underserved communities. This was provided as an example of the types of private-public partnerships that we should be developing/fostering as a State Board.

Additional meetings dates were discussed. Ms. Halsey and Mr. Patterson pointed out that in the event there is a budget stalemate it would not be possible to have a meeting due to travel and payment restrictions. A meeting in late June is possible and Board staff will poll members for availability and schedule accordingly. The meeting was adjourned.

Approval of Local Workforce Investment Board Recertification Process

Action Requested

The Issues and Policy Committee approve the modified process for recertifying Local Workforce Investment Boards (LWIB).

Background

Section 117(c)(2) of the Workforce Investment Act of 1998 (WIA) and the California Unemployment Insurance Code Section 14200(b) (SB293) require the Governor to recertify one LWIB for each local workforce investment area (LWIA) once every two years. WIA Section 117(c)(2)(B) specifies that a LWIB may be recertified if it has met the required membership and performance criteria.

It is time to recertify the LWIB's for another two years beginning January 1, 2011. For the last recertification cycle, the Employment Development Department (EDD) issued directive WSD08-7 dated November 4, 2008. The directive required specified information to be submitted at a date certain. The directive restated the criteria for recertification; namely, meeting the requirements for Local Workforce Investment Board (LWIB) membership requirements and performance criteria. The performance criteria required the LWIBs to meet five out of six common measures in the adult and dislocated worker categories. The youth common performance measures were not included due to the significant program redesign necessitated by adopting the new measures. The directive stated that for future recertification the youth common measures would be included in the performance criteria. Two forms were required to be submitted to document compliance with WIA: (1) a listing of each LWIB member by category and a calculation that required percentages of business and labor members had been achieved, and (2) a functional self-certification attesting to the LWIB's performing its statutory functions.

Other States' Recertification Processes

Research was performed regarding how other states conduct the recertification process. The results are reported below:

- **New Jersey:** This state has an entire handbook on how to run a LWIB/LWIA. The section on LWIB membership, appointment process and filling vacancies was reviewed. For example, individuals nominated must reasonably represent the industrial and demographic composition of the business community and representatives from proprietary schools may not be considered a business sector member. The appointment process is defined as a joint effort of Local Elected Officials, the business community, the local community, and labor federations. The organizations that may nominate LWIB members are specified. Vacancies are expected to be filled within 60 days. The guidance also includes a certification checklist, which is more extensive than California's.

- **Oklahoma:** This state just published new direction on the current two year certification process occurring in that state. It is quite extensive. It begins by describing why recertification is important and some goals of LWIBs. It specifies some general policies regarding membership. Namely, the diversity of the LWIB membership should match the diversity levels within the LWIA and LWIB membership should represent key industry sectors, key community and economic development leaders, diversity of the LWIA, and LWIA geographically. Then it restates the membership requirements of WIA. The guidance also spells out the requirement for separation of LWIB, WIA Title I provider and LWIB staff and requires documentation that the LWIB staff is not on the service provider's payroll. The guidance then goes on to describe other requirements for recertification that are similar to California's local plan modification process, such as collaboration with economic development, regional sector strategies, revitalize youth councils, and continuous improvement activities. Decertification guidelines are also specified. Documentation is due March 1, 2010 for this cycle.
- **Maryland:** The state directive covers biennial recertification for two years beginning July 1, 2009. It basically restates WIA law and provides forms to document recertification.
- **South Carolina:** This state used a facilitated meeting process to arrive at the standards and the implementation process. Guiding principles were developed, which were similar to Oklahoma's. The points highlighted were strategic planning, resource alignment, support of a quality one-stop system, support for youth, LWIB funding oversight, and fiscal and performance accountability. Finally, timelines were established.

Alternatives

1. **Status Quo (Modified):** Revise and republish Directive WSD08-7 to restate the past recertification process whereby a membership roster and ratio calculations were required along with a self-certification checklist of performing statutory functions. However, it will be necessary to modify the performance criteria to include the youth common measures. Consequently, instead of meeting five out of six common measures, it will be necessary to meet eight out of nine common measures.

Pro:

- This alternative meets WIA requirements.
- The criterion is objective and is simple to administer.
- EDD can quickly and efficiently process the required forms and determine the performance criteria.

Con:

- It is the absolute minimum and does not measure other criteria, such as how the LWIBs are meeting State Plan objectives, State Board policies or their local plans.

2. **Expanded Recertification:** Expand the recertification process to include measures of achieving State Plan objectives and support of State Board initiatives, such as sector strategies. This could be accomplished by requiring LWIBs to certify and document achieving the objectives of their local plans since current EDD directives regarding local plan modification require these plans to address specific statewide objectives. Documentation of achieving local plan objectives provides an indirect measure of support for and achieving statewide policies and goals. Continue to request information regarding LWIB memberships and expand performance measures to include youth common measures. Require meeting 8 out of 9 common measures for recertification.

Pro:

- LWIBs will have to demonstrate more than achieving just membership requirements and performance criteria.
- It will require LWIBs to meet definable goals of supporting State Plan and State Board priorities for recertification.
- It provides a method to measure performance beyond the common measures by demonstrating achieving local plan objectives.
- It improves upon requiring only the minimum.

Con:

- This alternative is more complex and requires greater administrative effort to accomplish.
- It is somewhat duplicative of the local plan modification process as it will require some of the same information.
- The criteria are subjective.

Recommendation

The expanded recertification alternative (Alternative 2) is recommended. Although it requires a subjective analysis of local plan objective achievement, it provides a method to assess support of and achieving State Plan and State Board priorities and policies. It enhances the LWIB recertification process and adds a measure used by other states.

Approval of Exemplary Performance Definition

Action Requested

The Issues and Policy Committee review and recommend modification of the Exemplary Performance definition and award methodology.

Background

The Workforce Investment Act (WIA) Section 134(a)(2)(B)(iii) requires the Governor to reserve funds for providing incentive grants to Local Workforce Investment Areas (local area) for exemplary performance on the negotiated local performance measures. The State Board's policy is currently expressed in WIA Directive 09-16, dated April 14, 2010. This recent revision implemented the use of the statewide Common Measures waiver for granting these incentive awards. The current calculation methodology provides for a full award to the local area that meets or exceeds their negotiated performance levels for all of the measures in each of the three WIA customer groups (i.e. adults, dislocated workers, and youth). A local area may also receive a partial award for meeting or exceeding all of the performance goals in any of the customer groups. For example, meets or exceeds all the measures for adult and dislocated worker groups but not in the youth category. Each customer group represents 33.33 percent of the full EP incentive award.

DEFINITIONS USED BY OTHER STATES

Research has indicated that states define "Exemplary Performance" in a variety of ways. Some examples are:

Alaska:

Exemplary Performance is defined as exceeding all of the applicable Program Year (PY) WIA program core performance measures by ten percent (10%) or more.

Kansas:

Exemplary performance is defined as exceeding the measure by 10% or more.

Ohio:

A local WIB meets exceptional performance when annual performance/common measures calculations indicate that the local WIB:

- Does not fail – meaning meets all nine performance/common measures for adult, youth, and dislocated worker programs;
- Exceeds at least seven performance/common measures for the adult, youth, and dislocated work programs; and
- Does not have any outstanding or unresolved audit findings for recovery.

Oregon:

A local area which has achieved a cumulative program area score greater than 100% and at least 80% of the negotiated performance level on each performance indicator within a program area.

Based on this data and the charge to the Committee by Secretary Bradshaw to redefine the definition of Exemplary Performance, the following alternatives provide some evaluative considerations and a final recommendation.

ALTERNATIVES

1. **Status Quo:** Maintain the current definition of being eligible to receive a full EP incentive award, a local area must meet or exceeds its negotiated performance goals for all of the measures in each of the three WIA customer groups (i.e. adults, dislocated workers, and youth). A local area may receive a partial award for meeting or exceeding all of the performance goals in any one of the customer groups. Each customer group represents 33.33 percent of the full EP incentive award.

PRO:

- Rewards local areas that meet or exceed some of their goals.
- Allows for awards to be given to more local areas.
- Forty three of the 49 local areas receive some amount of EP award

CON:

- Reduces awards for local areas which meet or exceed all of their goals.
- Diverts funds from local areas that manage more successful programs.
- Does not define exemplary as something more than simply meeting the goals negotiated by the local areas.

2. Develop a new definition**(a) Meet all negotiated goals.**

Change the current policy to require a local area to meet its negotiated performance goals for all of the measures in all of the three WIA customer groups (i.e. adults, dislocated workers, and youth). A local area which does not meet all of the measures in all of the three WIA customer groups will not be eligible for a partial award. The total EP award amount available will be divided equally among the local areas which satisfy this new exemplary performance definition.

PRO:

- Allows for a larger incentive award to those local areas whose performance rises to the level of being exemplary.
- Fourteen of the 49 local areas will be eligible to receive full EP incentive awards.
- Identifies and awards only the most successful local areas.
- Allows for more funds to be used in programs which have proven to be successful.

CON:

- Local areas which meet only some of their goals will not receive any award.

(b) Achieving a predetermined percentage amount above the negotiated performance goal.

Change the current policy to provide partial incentive awards to the local areas that achieve a predetermined percentage amount above their negotiated goals in any of the three performance categories.

PRO:

- Provides incentive awards only in the categories where the local area has exceeded performance by a predetermined percentage.
- Easy to administer

CON:

- Provides an incentive award for performance in a single category rather than evaluating the local area's overall performance.

Approval of High Concentration of Eligible Youth Awards

Action Requested

The Issues and Policy Committee update the current policy through discussion and evaluation of the alternatives presented in this paper.

Background

The Workforce Investment Act of 1998 (WIA) Section 129(b)(2)(C) specifies that a portion of the Governor's 15% Discretionary WIA program funds shall be used to provide additional assistance to local areas that have high concentrations of eligible youth to carry out activities specified further in WIA (i.e. assessment, supportive services, develop service strategies, and prepare for post secondary education). The historical allocation of funding for this effort has been \$500,000 per year.

The Employment Development Department (EDD) directive WSD09-5 dated December 29, 2009 specifies the policy and criteria for high concentration of eligible youth additional assistance grants. This directive is based upon a California Workforce Investment Board (State Board) policy in effect since 2005. A local workforce investment area (LWIA) is considered to be a high concentration area if its percentage of eligible youth exceeds the statewide average. Additionally, the directive details other criteria and requirements for LWIAs who qualify to apply for grants. For the Program Year 2009-2010, six of the 27 local areas eligible applied for grants and received awards of \$83,000.

Eligible youth for WIA purposes is defined in WIA Section 101(13) and Code of Federal Regulations (CFR) 664.200 as:

- Is age 14 through 21
- Is a low income individual
- Is in one or more of the following categories:
 - Deficient in basic literacy skills
 - School dropout
 - Homeless, runaway, or foster child
 - Pregnant or parenting
 - Offender
 - Is an individual (including a youth with a disability) who requires additional assistance to complete an educational program or to secure and hold employment

Eligibility for grants is based upon 2000 census data, which is now over ten years old and out dated. Since the 2010 Census will not be collecting this demographic data, the EDD Labor

Market Information Division will be refreshing this data through the use of the American Community Survey (ACS) when that information becomes available.

Other States

Several states were surveyed regarding their high concentration of eligible youth programs. The replies are summarized below.

Florida

- Funds pilot projects targeting key identified youth who are high risk. Based upon outcomes, possible large scale models are launched.
- Allows its 24 regional workforce boards to use their 85% WIA formula funds with maximum flexibility within the law to serve youth populations identified by them as targeted populations.
- No specifically defined high concentration of eligible youth program statewide.

Texas

- Has not adopted a definition of high concentration youth area.
- Uses two methods to address high concentration of youth. One is through local boards using their allocations and the other is through statewide requests for proposal.

Nevada

- Does not have a policy on providing additional assistance to LWIAs with a high concentration of eligible youth.
- Has not defined a high concentration of eligible youth area.
- Has an extensive definition of an eligible youth that goes beyond WIA in their state compliance policies. (For example, Nevada requires proof of selective service registration and eligibility to work requirements.)

Issue: Should the Issues and Policy Committee recommend a modification to the current policy. The following is a discussion of potential alternatives and evaluation of those options.

Alternatives

1. **Status Quo:** Maintain the current system for granting additional assistant awards. Namely, conduct a competition among the approximately 27 qualified local areas using the criteria specified. Grant funding to those qualifying in the competition. Update the 2000 Census data using ACS data.

Pro:

- This alternative meets WIA requirements.
- This gives every local area qualifying as a high concentration area the opportunity to compete for funding.

Con:

- Decreases amount of funding available should all 27 apply and qualify.

2. **Automatically award funding to the 10 local areas with the highest concentration of youth:** Unilaterally award grant funding to these 10 local areas without a competitive application process. Update the current 2000 census data with current ACS data.

Pro:

- It is a simple and easily administered policy.
- Greater funding will be available to each of the 10 local areas.

Con:

- It is arbitrary.
- Some local areas may not desire the funds.
- Eliminates other local areas with high concentration of youth and have a need.

3. **Limit competition to the 10 local areas that meet the criteria using a competitive process.** Limit the number of potential grantees and award funding to those local areas that are the most responsive to the grant requirements. Update the 2000 Census data with current ACS data.

Pro:

- Identifies areas most in need and increases the amount of funding available between them.
- Allows them the option to apply rather than involuntarily receiving funding.
- Larger funding could result in more youth being served and increase the level of service being provided.

Con:

- Eliminates other qualifying areas with high concentration of youth.



JUN 30 2010

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol Building
Sacramento, California 95814

Dear Governor Schwarzenegger:

This letter provides approval of an extension of California's current Workforce Investment Act (WIA) and Wagner-Peyser Act (W-P) State Plan and waivers for Program Year (PY) 2010. This letter also responds to California's request for two new waivers.

Training and Employment Guidance Letter (TEGL) No. 21-09, issued on April 15, 2010, provides guidance for states to secure approval of their WIA/W-P State Plans and waivers for PY 2010, and included the option to receive an extension of the existing State Plan and waivers for an additional year without submitting a formal request.

Extension of State Plan

California's existing State Plan will expire on June 30, 2010. This letter constitutes a written determination under WIA Section 112 (29 USC 2822) that the Employment and Training Administration (ETA) is extending the approval of California's State Plan for WIA Title I and the Wagner-Peyser Act for Program Year 2010, July 1, 2010 through June 30, 2011.

The Grant Officer will issue a Notice of Obligation for the "July portion" of the WIA formula allocations for Adult and Dislocated Worker programs, effective July 1, 2010, under the PY 2010 Annual Funding Agreement. The W-P programs annual funding agreement for PY 2010/Fiscal Year 2011 will be sent to the designated state grantee agency for signature and return to the Grant Officer for execution, effective July 1, 2010. The W-P annual funding agreement will provide for the initial base allocation of PY 2010 funds.

Performance Levels

The Regional Administrator's letter advising the State of the PY 2010 WIA and W-P final performance goals constitutes a modification to the State Plan. ETA will incorporate California's final performance goals for PY 2010 into the Regional and National Office copies of the State Plan. Please include these final PY 2010 goals in the State's official copy of the State Plan.

Waivers

As part of the State's extension of the WIA/W-P State Plan, and as described in TEGL 21-09, ETA has made determinations regarding an extension of California's PY 2009 waivers of statutory and regulatory requirements under WIA for PY 2010. The State also submitted a request for two new waivers (copy enclosed). The State's request for these waivers is written in the format identified in WIA section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the State's waiver extensions as well as its submission of new waiver requests is outlined below. This action is taken under the Secretary's authority at WIA section 189(i) to waive certain requirements of WIA title I, Subtitles B and E, and sections 8-10 of the Wagner-Peyser Act. Unless otherwise indicated, all waiver approvals that follow apply to both WIA formula funds and funds made available under the American Recovery and Reinvestment Act of 2009.

Extension of Waivers

Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The State was previously granted a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older and out-of-school youth program participants. The State is granted an extension of this waiver through June 30, 2011. Under this waiver, the State can use ITAs for older and out-of-school youth program participants. The State should ensure that funds used for ITAs are tracked and reflected in the individual service strategies for these youth.

Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State was previously granted a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted an extension of this waiver through June 30, 2011. Under the waiver, the State is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the State to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The State was previously granted a waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. The State is granted an extension of this waiver through June 30, 2011. This waiver permits the State to negotiate and report WIA outcomes against the common performance

measures only, rather than the performance measures described at WIA Section 136(b). The State will no longer negotiate and report to ETA on the following WIA measures: WIA adult and dislocated worker credential rates; participant and employer customer satisfaction; older youth measures; and younger youth measures. The State will use the three adult common performance measures to negotiate goals and report outcomes for the WIA Adult and WIA Dislocated Worker programs. The State will use the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth program. The Workforce Investment Act Standardized Record Data system (WIASRD) item 619, Type of Recognized Credential, should be completed for each individual as appropriate, regardless of this waiver to report on common performance measure outcomes only.

Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State was previously granted a waiver to permit local areas to conduct allowable statewide activities as defined under WIA section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. The State is granted an extension of this waiver through June 30, 2011. Under this waiver, the State will be permitted to allow local areas to use up to 10 percent of local Dislocated Worker funds and up to 10 percent of local Adult funds for incumbent worker training only as part of a lay-off aversion strategy. Use of Adult funds must be restricted to serving lower income adults under this waiver. ETA believes limiting incumbent worker training to the specified level and requiring it to be a part of layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. Local areas must continue to conduct the required local employment and training activities at WIA section 134(d), and the State is required to report performance outcomes for any individual served under this waiver in the WIASRD, field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using Waivered Funds" provide policy guidance related to implementation of this waiver.

Waiver of the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The State was previously granted a waiver of the required 50 percent employer contribution for customized training to permit the use of a sliding scale for the employer contribution based on the size of the business. The State is granted an extension of this waiver through June 30, 2011. Under the waiver, the following sliding scale is permitted: 1) no less than 10 percent match for employers with 50 or

fewer employees, and 2) no less than 25 percent match for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent contribution) continue to apply. When determining the funding source for customized training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State may provide customized training to low-income adults with WIA Adult funds, and may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

Waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The State was previously granted a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The State is granted an extension of this waiver through June 30, 2011. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs. As stated in TEGL No. 14-08, Section 19, issued on March 18, 2009, this waiver does not apply to funds made available through the American Recovery and Reinvestment Act of 2009. However, the State is permitted to transfer up to 30 percent of ARRA funds between programs under WIA and under the Department of Labor Appropriations Act of 2009. This authority is discussed in TEGL No. 14-08, change 1.

New Waiver Requests

Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State is requesting a waiver to permit an increase in employer reimbursement for on-the-job training through a sliding scale based on the size of the business. The State is granted this waiver through June 30, 2011. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2) up to 75 percent for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State may provide on-the-job training to low-income adults with WIA Adult funds, and may provide on-the-job training to dislocated workers with WIA Dislocated Worker funds. On-the-job training provided with statewide funds must serve WIA eligible individuals.

Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.

The State is requesting a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA section 134(a)(3), specifically incumbent worker training. The State is granted this waiver through June 30, 2011. Under this waiver, the State is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a lay-off aversion strategy. ETA believes limiting incumbent worker training to layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. The State is required to report performance outcomes for any incumbent workers served under this waiver in WIASRD field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using Waivered Funds" provide policy guidance related to implementation of this waiver. ETA Training and Employment Guidance Letter No. 14-08, Section 19, issued on March 18, 2009, explained that in order to apply this waiver to funds made available through the American Recovery and Reinvestment Act of 2009, states needed to submit a detailed justification. Because record numbers of unemployed individuals continue to seek the services of the workforce system, ETA believes that the use of Recovery Act funds for incumbent worker training would be inappropriate, and these funds should be devoted to serving those participants without jobs. Therefore, this waiver does not apply to funds made available through the American Recovery and Reinvestment Act of 2009.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and the approved State Plan. In addition, as required by TEGL No. 14-00, Change 3, the State should address the impact these waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to working together as you implement your State Plan for PY 2010. If you have any questions related to the issues discussed above, please contact Robert Lanter, the Federal Project Officer for California, at (415) 625-7936 and Lanter.Robert@dol.gov.

Sincerely,



Jane Oates
Assistant Secretary

Enclosure

cc: Victoria Bradshaw, Secretary, Labor & Workforce Development Agency
Pam Harris, Acting Director, Employment Development Department
Richard Trigg, Regional Administrator, ETA San Francisco Regional Office
Janet Sten, Federal Coordinator for Plan Review and Approval
Thomas Martin, Grant Officer
Robert Lanter, Federal Project Officer for California

**STATE OF CALIFORNIA
WORKFORCE INVESTMENT ACT (WIA)
WAIVER REQUEST**

**Waiver to Permit Up to 90 Percent Reimbursement for
On-the-Job-Training**

The California Workforce Investment Board (State Board) and the Employment Development Department, as the administrative entity of the WIA, submit this request for a waiver to permit up to 90 percent reimbursement for on-the-job-training.

In keeping with the guidelines set forth at WIA Section 189(i)(4)(B) and 20 Code of Federal Regulations (CFR) Part 661.420(c), please accept the following as a request for waiver.

The State Board respectfully requests a waiver to allow the State to reimburse up to 90 percent of employer cost for on-the-job-training.

A. Statutory or Regulatory Requirements to be Waived

Section 101(31)(B) of the Workforce Investment Act

B. Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

The purpose of this waiver is to increase flexibility for the use of WIA formula and American Recovery and Reinvestment Act (ARRA) funds by permitting up to 90 percent reimbursement of the extraordinary costs of on-the-job training. Reimbursement would be provided on a sliding scale based on employer size: up to 90% for employers with 50 or fewer employees; up to 75% for employers with 51 to 250 employees; for employers with 251 or more employees, reimbursement would remain at the 50% statutory level.

The waiver will allow the State to encourage and expand the hiring of unemployed adult and dislocated workers who lack some of the skills needed to meet an employer's needs. It will provide them with opportunities to add new skill sets and learn new technologies while they return to the workplace and earn wages to support themselves and their families.

It will also:

- Maximize the flexibility needed to create on-the-job-training opportunities in the private and non-private sectors that provide appropriate skill acquisition opportunities for participants.
- Increase business usage of the workforce system and provide greater incentives for them to hire new workers.

- Attract a larger number of high quality, high wage jobs that create economic wealth for the various regions within the State.

California has one of the highest unemployment rates in the nation. This waiver will help businesses solve workforce challenges, such as attracting and retaining well qualified workers.

C. State or Local Statutory or Regulatory Barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

D. Description of Individuals Impacted by the Waiver

Adult and Dislocated workers and other hard to serve populations with the greatest barriers to employment who are not already skilled enough to obtain available employment and would most benefit from being able to earn a wage while learning new skills; employers with full-time job openings in growth industries who are having difficulties finding appropriately skilled workers but would have the ability to provide on-the-job-training if assisted with the extraordinary costs of providing such training.

E. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver

As with all other major policy and procedural decisions made by the State, we rely heavily upon input from local partners. The potential impediments and benefits of being granted this waiver were discussed with local partners to gain input on those areas. Due to the level of expediency required to request this waiver, it was posted on the State Board's website for seven days seeking public comments. No comments were received in response to this request.

The CWIB and the EDD, as the administrative entity of the WIA in California, will monitor all reimbursed on-the-job-training. The State's current monitoring policy/procedures will be modified as necessary ensure compliance with the intent of the waiver.

**STATE OF CALIFORNIA
WORKFORCE INVESTMENT ACT (WIA)
WAIVER REQUEST**

Use of Rapid Response Funding for Incumbent Worker Training

The California Workforce Investment Board (State Board) and the Employment Development Department (EDD), as the administrative entity of the Workforce Investment Act (WIA) in California, submit this request for a waiver of the restrictions on the use of both regular and American Recovery and Reinvestment Act (ARRA) Rapid Response funding for Incumbent Worker Training at the Local Workforce Investment Area (Local Area) level. (A definition of incumbent worker is under development. The State Board will approve one before this waiver becomes operational.) This waiver would allow Local Workforce Investment Boards (Local Boards), at their discretion, to use Rapid Response funding of Local Area regular and ARRA funds for adults and dislocated workers [WIA Section 133(b)] to provide statewide employment and training activities identified at WIA Section 134 and 20 CFR 667.130, specifically to carry out Incumbent Worker Training programs for layoff aversion at the Local Area level. This waiver will apply to Program Year 2009 and subsequent years.

In keeping with the guidelines set forth at WIA Section 189(i)(4)(b) and 20 CFR Part 661.420(c) please accept the following as a request for a waiver.

A. Statutory or Regulatory Requirements to be Waived

The State of California requests a waiver from the provisions of WIA Sections 134 (Use of Funds for Employment and Training Activities), as well as a waiver from the provisions of WIA regulation at 20 CFR 665.300 regarding the use of WIA Rapid Response funds.

B. Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

California has the largest labor market in the United States. In 2008, nonfarm payrolls totaled 14,994,100 jobs, comprising 10.9 percent of the nation's nonfarm jobs. In addition, California had 390,900 jobs in the farm sector for a total of 15,385,000 jobs in 2008. In the second quarter of 2009, the California economy was gripped by a severe recession characterized by deepening job losses and rapidly rising unemployment. California's economic problems originated in the housing and financial sectors, spread into the consumer economy, and subsequently into the rest of the economy. Unemployment is highest in low skill occupations. Mass layoff events have increased. Job losses are expected to continue into 2010.

Investing public resources to support technical and/or soft skills training of incumbent workers is a practical layoff aversion strategy for the state. It retains good jobs in California's targeted sectors. These identified (targeted) industry sectors play a key role in the state's economic success. The State Workforce Investment Board (State Board) in collaboration with the Economy Strategy Panel continues to invest in the development and implementation of the Regional Economies Project Industry Clusters of Opportunity Methodology (ICM). This economic analysis identifies on a regional basis, those industries that are emerging and those that are critical to the economic competitiveness of California's economy, which may require intervention to ensure viability for the long term. To further this effort, the State Board has awarded grants to assist existing regional collaboratives, or the formation of new regional partnerships to use the ICM to establish sector strategies, targeting those industries and its employees, identified through the regional data analysis.

The application of this ICM framework, assures that funds used for incumbent worker training, benefit the employee and employer, as well as improve the region's economic vitality. The continued use of other existing methods such as WARN Notices will also complement the use of ICM. This waiver also provides the Local Board with greater flexibility in the use of WIA Rapid Response funds to participate in the regional collaborative and leverage the full capability of the system's resources and not be constrained by the silos typically associated with WIA funding streams.

Additionally, the plan for incumbent worker training, as part of California's layoff aversion strategy, will target industries and economic sectors, which offer high skill and high wage jobs. One of these sectors is the green economic sector. California has a long-standing history of leading implementation of environmental policy. Most recently, the enactment of the California Global Warming Solutions Act (AB32) and the Alternative and Renewable Fuel and Vehicle Technology Program (AB118) have demonstrated that California is becoming a national and global leader in combining advances in public policy and private sector innovation to enhance both environmental quality and economic growth. In addition, the Governor signed the Green Collar Jobs Act, establishing the Green Collar Jobs Council (GCJC) under the State Workforce Investment Board and directing the development of a statewide sector strategy targeting the emerging Green economy.

The types of training that will be provided include occupational skills training designed to meet the special requirements of a business and is conducted with employer commitment to continue to retain all trained individuals upon successful completion of the training, educational training, training in strategies to improve efficiency of business operations, and computer software training. Training is expected to provide skills, which result in the employer being able to adjust to a changing economic climate by providing the jobs necessary to do so, thus averting layoffs. Training is also expected to provide skills for employees, which will permit advancement to higher skilled, higher paying jobs and job retention.

The IWT layoff aversion strategy will continue to be coordinated with other existing services accessible through One Stop Career Centers throughout California and will help to ensure to the extent possible a maximum return of investment as the 49 Local Areas that comprise California's workforce system continue to face a wide range of distinct economic challenges due largely to the national economic downturn which in California, like many other states has resulted in excessively high unemployment.

Criteria will be established to identify appropriate uses of incumbent worker training. Employers will be selected where economic indicators demonstrate a need for incumbent worker training as part of a layoff aversion strategy. Such indicators may include announced layoffs or reduced work schedules. An analysis will be performed to ensure the training provides the employees with the skills necessary to enable the employer to maintain operations and avert layoffs, or even closure. Employers will be required to demonstrate a commitment to retain the employee, to pay the employee a higher wage or otherwise provide a tangible benefit to the employee.

California's workforce system is comprised of 49 Local Workforce Investment Areas which are independently locally operated by a Local Workforce Investment Board. As such, the local areas have a large degree of flexibility to develop programs and deliver services that best address the unique needs of the local labor market. Because of their connection with the employer community, staff at the local level is in the best position to identify opportunities for utilizing the IWT service strategy and for developing appropriate criteria for implementing the IWT layoff aversion strategy together with Rapid Response and other economic development strategies.

C. State or Local Statutory or Regulatory Barriers

There is no State or local statutory or regulatory barriers to implementing the proposed waiver.

D. Description of Individuals Impacted by the Wavier

This waiver plan will positively affect businesses by reducing the risk of layoff or closure because workers have not kept current with new skills and technologies. It also has the potential, as businesses expand due to the enhanced skills of their current workers, to stimulate new, lower-skill positions and to create openings in positions vacated by incumbent workers who receive skills upgrade training. The training provided to individuals will make them more valuable to current and future employers. This waiver plan increases the role Local Boards as workforce intermediary and the role of business in the workforce development system. It also increases local flexibility to respond to the business community, in keeping with the goals of the WIA.

E. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver

This request was developed as a result of concerns expressed by Local Boards. The potential impediments and benefits of being granted this waiver were discussed with local partners to gain input on those areas. Due to the level of expediency required to request this waiver, it was posted on the State Board's website for seven days seeking public comments. No comments were received in response to this request.

The EDD, as the administrative entity of the WIA in California, will monitor all reimbursed on-the-job-training. The State's current monitoring policy/procedures will be modified as necessary ensure compliance with the intent of the waiver.

ETPL WAIVER COMMENTS**June 3, 2010**

COMMENTS	COMMENT	RESPONSE
Eve Sutton (San Mateo County)	<p>State-wide eligibility is much more efficient and economical than requiring each provider to list with every local board in the state of California. I am trying to become a provider, and I agree—it is far too difficult (and useless) to require each provider to register with each local board.</p> <p>Related thought: The local boards might be more responsive to individual communities, but connecting all the providers state-wide would reduce a lot of hassles. Having one central registry would help to have some kind of central communication so providers and state-wide administrators or coordinators could talk to everyone (distribute news and solicit comments) all at once. If Provider X has a course or service that could serve the workers who are referred by Provider Y, we should have some way to get these two connected so they can work together.</p>	The California Workforce Investment Board (State Board) agrees that a state-wide eligibility list is more efficient and economical.
Robert Mejia (South Bay WIB)	<p>We understand there are certain administrative benefits to the award of the waiver recommended above. We believe, however, that such a waiver circumvents local approval policies and criteria for WIA approved education and training providers and tends to delimit local board control and knowledge of entities approved for WIA training and education services in local areas.</p> <p>If it is the intent of the State to pursue such a waiver, and if it is determined to be in the broader best interest of the State's workforce system to do so, we offer the following comments regarding such a waiver.</p> <ul style="list-style-type: none"> • This waiver should in no way supersede, suspend, abridge, or otherwise preclude a local board's ability to establish local policy for the approval of training and education providers under the Workforce Investment Act. • The waiver, if approved, should apply only to public institutions under 122(a)(2)(A) offering programs that lead to an associate degree, baccalaureate degree, or certificated, and to public institutions authorized under 122(a)(2)(B). • This waiver should in no way prescribe the conditions, methods by, or criteria under which local boards may contract with a public entity to which the proposed waiver applies if approved by the U. S. Department of Labor. 	<p>WIA requires one state-wide ETPL. Certain public educational institutions are considered under WIA to be eligible providers. This waiver recognizes the foregoing and ensures all qualified programs are included on the state-wide ETPL.</p> <p>The waiver will not interfere or abridge any local protocols. It merely places qualified programs, already deemed initially eligible by the WIA, on the state-wide ETPL. It will apply only to public institutions in accordance with WIA.</p>

<p>John Deltatier (Proteus)</p>	<p>As a private, non-profit 501c3 organization, Proteus would comment that this waiver request, while drawn to achieve a laudable goal, is drawn too narrowly. Proteus would comment that the waiver should say: Paragraph 2 of Bolded Section A of the waiver request should be altered to say that...WIA Section 122(a)(2)(A, B and C where any agency listed under C would also have to be accredited by WASC).</p> <p>There are many fine private institutions that are WASC accredited that offer an educational experience every bit as fine as our California Community Colleges. We should not discriminate against them.</p>	<p>The WIA provides for initial eligibility of post-secondary programs outlined in Section 122. WIA does not prescribe the same eligibility for other public or private training programs but requires the Governor to establish a procedure for use by local boards for determining the initial eligibility of such programs.</p> <p>A “program of training services” is defined in 20 CFR Section 663.508 as: “One or more courses or classes, that upon successful completion, leads to 1) a certificate, an associate degree, or baccalaureate degree or 2) the skills or competencies needed for a specific job or jobs, an occupation, occupational group, or generally, for many types of jobs or occupations, as recognized by employers and determined prior to training.”</p> <p>WASC certification addresses the educational entity in its entirety, not the individual programs offered by it. The eligibility of individual programs is performed by the local boards in administering the provisions of the Governor’s policy.</p>
<p>Pam Lassetter (FRWIB Assistant Director)</p>	<p>Fresno has reviewed the proposed waiver requests and has the following input:</p> <p>The only waiver we are concerned with is the Eligible Training ETP Initial Eligibility Determination.</p> <p>The Fresno WIB has developed standardized processes to facilitate public education training programs on our local list. The issue we have is the State approving this-the timeliness is too long. Secondly, the FRWIB does not put all programs on the list.-they may be above our payment limit, or not be an occupation the FRWIB has adopted with our sector based strategy. We have targeted 8 sectors for high wage-high growth jobs. Thirdly, we on a monthly basis evaluate the performance of entered employment for all training programs and place any on hold locally that do not meet our mandated performance requirements. – Yes we hold training programs to the same performance standards as our Contracted One Stop Providers.</p>	<p>The waiver applies to the WIA required state-wide ETPL. There is nothing in the waiver requiring a local board to use a particular program. This waiver does not supersede local protocols.</p>

**STATE OF CALIFORNIA
WORKFORCE INVESTMENT ACT (WIA)
WAIVER REQUEST**

**Eligible Training Provider List (ETPL) Initial Eligibility Determination
Postsecondary Educational Institutions and Entities
Carrying Out Apprenticeship Programs**

The California Workforce Investment Board (State Board) and the Employment Development Department, as the administrative entity of the WIA in California, submit this request for a waiver of WIA Section 122(b)(1), which requires postsecondary institutions and entities offering apprenticeship programs to submit applications to each Local Workforce Investment Board (Local Board) for each program offering to be listed on the ETPL. This waiver will apply to Program Year 2010.

In keeping with the guidelines set forth at WIA Section 189(i)(4)(B) and 20 Code of Federal Regulations (CFR) Part 661.420(c), please accept the following as a request for waiver.

A. Statutory or Regulatory Requirements to be Waived

The WIA Section 122(b)(1) and 20 CFR 663.515(b) require that training providers desiring to be determined and listed as initially eligible to receive funds made available under WIA Section 133(b) for the provision of training services, submit an application to the local board through a locally described application process. Additionally, this requirement is stipulated in 20 CFR 663.505(b). The state policies implementing these WIA provisions are described in WIA Directive [WIAD06-15](#), published February 7, 2007.

For a majority of institutions of higher learning that meet the initial eligibility criteria described in WIA Section 122(a)(2)(A-B), the administrative burden imposed by the local application process has hindered their participation and the listing of a wide range of training programs which are otherwise available to the general public.

B. Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

This waiver request seeks to further implement in California, the national direction as communicated in TEGL 13-06 and the Governor's WIA State Plan priority for the Workforce Investment System of Collaborating to Improve California's Educational System at All Levels. The goal of this waiver is to allow those institutions determined initially eligible under the WIA Section above, that have available program data, to apply to the State rather than the Local Board for listing on the ETPL.

The action will increase customer choice by providing a more comprehensive list of available training options in the local communities, maximize the use of funding resources available for use in individual training accounts for eligible adult and dislocated workers, and reduce training costs through the leveraging of resources currently within the workforce and education systems.

Finally, this waiver would also expand and enhance an existing partnership and collaboration between the local and state workforce investment boards and the publicly funded education system – a goal that is otherwise impeded without this waiver, and reduce the administrative burden and cost of managing the ETPL at the local and state levels by facilitating a state-level data transfer to list these educational programs on the statewide list.

C. State or Local Statutory or Regulatory Barriers

There are no known State or local statutory or regulatory barriers to implementing the proposed waiver.

D. Description of Individuals Impacted by the Wavier

All WIA eligible adults and dislocated workers that receive services under this program, community college campuses, local areas, as well as business customers will benefit from the waiver.

E. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver

This waiver request was available for public comment during a 30-day period through the State Board's website in accordance with the state policy. We received four comments, which are attached. As with all other major policy and procedural decisions made by the State, we relied heavily upon input from local partners. The potential impediments and benefits of being granted this waiver were extensively discussed with local partners to gain input. It was also recently presented at the California Workforce Association's quarterly meeting.

The CWIB and the EDD, as the administrative entity of the WIA in California, will monitor all summer youth employment programs. The State's current monitoring policy/procedures will be modified to include a review of the appropriate youth participant plans.

**STATE OF CALIFORNIA
WORKFORCE INVESTMENT ACT (WIA)
WAIVER REQUEST**

**Waiver Relating to Performance Measures for Summer Youth Activities Funded
by WIA and Temporary Assistance for Needy Families (TANF) Emergency
Contingency Fund (ECF)**

The California Workforce Investment Board (State Board) and the Employment Development Department (EDD), as the administrative entity of the WIA, submit this request for a waiver to the use of Common Measures for Youth enrolled in summer employment activities funded either with WIA youth formula allocations or with WIA youth formula allocations in conjunction with TANF ECF monies.

In keeping with the guidelines set forth at WIA Section 189(i)(4)(B) and 20 Code of Federal Regulations Part 661.420(c), please accept the following as a request for waiver.

The State Board respectfully requests a waiver to Common Measures for youth to allow the State to use the work readiness indicator as the only performance measure for youth enrolled in WIA funded summer employment activities, or co-enrolled in WIA and TANF ECF funded summer employment activities. The Common Measures waiver was granted to the State on December 11, 2007 and extended through June 30, 2010. This new waiver request would permit the work readiness indicator to be the sole indicator of performance used during the period of May 1, 2010, through September 30, 2010.

A. Statutory or Regulatory Requirements to be Waived

Common Measures for Youth specified in Employment and Training Agency Training and Employment Guidance Letter 17-05 and approved for use by California on December 11, 2007.

B. Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

Focusing on the work readiness indicator allows the State Board and its local areas to give youth a unique opportunity to explore work experiences that may not be possible without the pooling of WIA and TANF ECF monies. Without this waiver, the performance requirements would impede the true intent of this summer employment program as concerns over performance would overshadow the great opportunities and choices given to California's youth during these challenging economic times.

Local areas may use a combination of their Program Year (PY) 2010 youth formula allocations, remaining American Reinvestment and Recovery Act (ARRA) youth funds, and TANF ECF funding to provide subsidized summer employment opportunities to youth. Accordingly, TANF agencies are encouraged to pool their resources with local

areas to provide programs for low-income and at-risk youth. The local areas are already able to use the work readiness indicator as the only performance measure for youth enrolled in summer employment activities funded by ARRA. Applying this flexibility to programs funded by WIA or a combination of WIA and TANF ECF will allow local areas to use more of their resources to focus on the critical goal of offering at-risk youth subsidized summer employment activities without creating new administrative burdens.

This waiver is critical, as the youth employment rate has continued to remain extremely low during the current economic downturn. Recent data also suggests that the 2010 summer job market for youth could be the worst in four decades. The ARRA funding for summer youth programs during the summer of 2009 reached large numbers of youth. However, the need still exists for continued outreach and opportunity. If this waiver is granted, the local areas and TANF agencies will be able to expeditiously serve low income participants as well as those with barriers to employment, such as out-of-school youth and those most at risk of dropping out; youth in and aging out of foster care; youth offenders and those at risk of court involvement; homeless and runaway youth; children of incarcerated parents; migrant youth; Indian and Native American youth; and youth with disabilities. The local areas will offer supportive services, occupational skills training, and other relevant services to youth this summer.

C. State or Local Statutory or Regulatory Barriers

There is no State or local statutory or regulatory barriers to implementing the proposed waiver.

D. Description of Individuals Impacted by the Waiver

Youth participants ages 14 to 21 are impacted by this waiver request. In addition, the local areas, local TANF agencies and their business partners that employ the eligible youth will be impacted.

The EDD, in cooperation with the California Workforce Association surveyed California's 49 local areas regarding WIA/TANF youth co-enrollment. Seventeen Local Workforce Investment Boards responded to the survey. The local areas are distributed geographically throughout the State and are representative of the State's diverse regional economies and populations. Following are the survey questions and results:

- An *estimate* of the number of youth that will be co-enrolled in the WIA youth program and in TANF summer youth employment activities during PY 2010.

Of the 17 respondents, nine plan on co-enrolling youth in WIA and TANF summer youth programs, totaling approximately 2,450 youth.

- An *estimate* of the percent of PY 2010 WIA youth program enrollees that will be co-enrolled TANF summer youth employment participants only, and not participate in the WIA youth program beyond summer.

It is estimated that an average of 50 percent of youth co-enrolled in WIA/TANF activities statewide will not participate in the WIA program beyond summer.

Understanding that the response is representative of only one third of California's local areas, these numbers are only estimates and are expected to increase as the summer youth program is implemented in California.

It is anticipated that where these TANF and local area partnerships are formed and operating, both the WIA youth funds and TANF ECF funds will be used to pay wages for youth this summer. Some of these youth will be eligible for both funding sources and may be co-enrolled in both programs. Each youth will meet the eligible criteria for their appropriate funding source (age, eligibility, etc.). Additionally, both WIA and TANF ECF funding will be used to pay youth wages plus contractor costs to run and supervise the youth as appropriate.

The local areas are best positioned to make determinations and assessments of the youth participating in the summer employment opportunities. For those older youth that are not expected to return to school, individual service plans and strategies will be documented and the participants will be enrolled in WIA Adult programs or provided further education and training under WIA youth funded activities.

E. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver

This waiver is the result of guidance and encouragement from the Department of Labor and U.S. Department of Health and Human Services Administration for Children and Families along with input from LWIBs. As with all other major policy and procedural decisions made by the State, we relied heavily upon input from local partners. The potential impediments and benefits of being granted this waiver were extensively discussed with local partners to gain input on those areas and presented at the California Workforce Association's quarterly meeting. State policy for the length of the public comment period is 30 days. However, due to the expediency required to implement this program, that period was reduced to 10 days to ensure the necessary flexibility is provided to local areas in a timely manner to effect these summer youth programs and the youth served by them.

If this waiver is approved, youth who are in need of additional services under the WIA shall have the justification documented in their individual service plans and will be enrolled into other experiences such as WIA youth services or co-enrolled into a WIA Adult program or service.

The State Board and the EDD as the administrative entity of the WIA in California, will monitor all summer youth employment programs. The State's current monitoring

policy/procedures will be modified to include a review of the appropriate youth participant plans.

**STATE OF CALIFORNIA
WORKFORCE INVESTMENT ACT (WIA)
WAIVER REQUEST**

Waiver Relating to Program Design Flexibility for Summer Youth Activities

The California Workforce Investment Board (State Board) and the Employment Development Department (EDD), as the administrative entity of the WIA, submit this request for a waiver to apply the program design flexibility for summer youth outlined in TEGL 26-09 Section 8.2.C for youth enrolled in summer employment activities funded either with WIA youth formula allocations or with WIA youth formula allocations in conjunction with TANF ECF monies.

In keeping with the guidelines set forth at WIA Section 189(i)(4)(B) and 20 Code of Federal Regulations Part 661.420(c), please accept the following as a request for waiver.

A. Statutory or Regulatory Requirements to be Waived

The State Board respectfully requests a waiver of the required program elements in WIA Section 129(c)(2). The waiver would apply to youth enrolled in summer youth employment activities funded by WIA youth formula allocations or in conjunction with TANF ECF monies. This waiver would apply during the period of May 1, 2010 through September 30, 2010.

B. Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

This goal of this waiver request is to provide the local areas with the flexibility to determine the type and level of assessment to be included in an Individual Service Strategy (ISS) for youth participating in a summer youth employment activity during the summer months only and if the 12 month follow-up will be appropriate for these youth participants.

If this waiver is granted, the local areas and TANF agencies will be able to expeditiously serve low income participants as well as those with barriers to employment, such as out-of-school youth and those most at risk of dropping out; youth in and aging out of foster care; youth offenders and those at risk of court involvement; homeless and runaway youth; children of incarcerated parents; migrant youth; Indian and Native American youth; and youth with disabilities. The local areas will offer supportive services, occupational skills training, and other relevant services youth this summer.

Overall, the youth employment rate has continued to remain extremely low during the current economic downturn. A recent projection stated that youth summer employment is at its lowest in over 4 decades. The American Reinvestment and Recovery Act

(ARRA) funding for summer youth programs during the summer of 2009 reached large numbers of youth. However, the need still exists for continued outreach and opportunity. While there is little or no ARRA youth funding in some local areas, regular WIA youth formula funding exists and significant TANF EC funding is also available. The granting of this waiver will assist TANF entities and local areas to pool their resources to provide opportunities for low-income and at-risk youth.

Allowing for flexibility in assessments, ISSs, and follow-up services allows the State Board and the local areas to give youth a unique opportunity to explore work experiences that may not have been possible without the pooling of ARRA, WIA and TANF ECF. Without this waiver, the assessment and follow-up requirements would impede the true intent of this summer employment program as concerns over monitoring and separation of funding streams would overshadow the great opportunities and choices given to California's youth during these challenging economic times.

C. State or Local Statutory or Regulatory Barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

D. Description of Individuals Impacted by the Waiver

Youth participants ages 14 to 21 are impacted by this waiver request. In addition, the local areas, local TANF agencies and their business partners that employ the eligible youth will be impacted.

The EDD, in cooperation with the California Workforce Association surveyed California's 49 local areas regarding WIA/TANF youth co-enrollment. Seventeen Local Workforce Investment Boards responded to the survey. The local areas are distributed geographically throughout the State and are representative of the State's diverse regional economies and populations. Following are the survey questions and results:

- An *estimate* of the number of youth that will be co-enrolled in the WIA youth program and in TANF summer youth employment activities during PY 2010.

Of the 17 respondents, nine plan on co-enrolling youth in WIA and TANF summer youth programs, totaling approximately 2,450 youth.

- An *estimate* of the percent of PY 2010 WIA youth program enrollees that will be co-enrolled TANF summer youth employment participants only, and not participate in the WIA youth program beyond summer.

It is estimated that an average of 50 percent of youth co-enrolled in WIA/TANF activities statewide will not participate in the WIA program beyond summer.

Understanding that the response is representative of only one third of California's local areas, these numbers are only estimates and are expected to increase as the summer youth program is implemented in California.

It is anticipated that where these TANF and local area partnerships are formed and operating, both the WIA youth funds and TANF ECF funds will be used to pay wages for youth this summer. Some of these youth will be eligible for both funding sources and may be co-enrolled in both programs. Each youth will meet the eligible criteria for their appropriate funding source (age, eligibility, etc.). Additionally, both WIA and TANF ECF funding will be used to pay youth wages plus contractor costs to run and supervise the youth as appropriate.

The local areas are best positioned to make determinations and assessments of the youth participating in the summer employment opportunities. For those older youth that are not expected to return to school, individual service plans and strategies will be documented and the participants will be enrolled in WIA Adult programs or provided further education and training under WIA youth funded activities.

E. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver

This waiver is the result of guidance and encouragement from the Department of Labor and U.S. Department of Health and Human Services Administration for Children and Families along with input from LWIBs. As with all other major policy and procedural decisions made by the State, we relied heavily upon input from local partners. The potential impediments and benefits of being granted this waiver were extensively discussed with local partners to gain input on those areas and presented at the California Workforce Association's quarterly meeting. State policy for the length of the public comment period is 30-days. However, due to the expediency required to implement this program, that period was reduced to 10 days to ensure the necessary flexibility is provided to local areas in a timely manner to effect these summer youth programs and the youth served by them.

If this waiver is approved, youth who are in need of additional services under WIA shall have the justification documented in their individual service plans and will be enrolled into other experiences such as WIA youth services or co-enrolled into a WIA Adult program or service.

The CWIB and the EDD, as the administrative entity of the WIA in California, will monitor all summer youth employment programs. The State's current monitoring policy/procedures will be modified to include a review of the appropriate youth participant plans.

WORK READINESS AND PROGRAM DESIGN FLEXIBILITY WAIVER COMMENTS
June 25, 2010

COMMENTER	COMMENT	RESPONSE
Julie Castro-Cardenas (Santa Ana WORK Center)	<p>(1) Attachment 1, Section D: states that “Youth participants ages 14-21 are impacted in this waiver request.”</p> <p>❖ The ARRA youth program allows participants to be enrolled up to age 24. Will the waiver include participants ages 22, 23, and 24?</p> <p>(2) SAWIB agrees and support the Waiver Request relating to the Program Design Flexibility.</p> <p>(3) Is there any possibility of making the income guidelines more flexible? Perhaps increasing the income guidelines to 200% of the federal income poverty level? A sample income chart has been attached.</p>	<p>(1 and 3) WIA Section 189 prohibits the Secretary of Labor from waiving certain eligibility criteria: participant eligibility is one of those criteria. .</p> <p>Training and Employment Notice (TEN) 24-09 indicates that WIA waiver authority does not apply to TANF agencies or regulations.</p> <p>WIA Section 101(25) defines low-income individual and sets forth precise guidelines for determining income according to the Lower Living Standard Income Level.</p> <p>Due to the precise guidelines regarding income level, this waiver will not amend the income guidelines.</p>
Lindsay Janice (San Bernardino County WIB)	The County of San Bernardino WIB fully supports the waiver requests for summer youth activities as detailed in WSIN09-72.	
Theresa Salazar Vital (Workforce Investment Board of Ventura County)	<p>1). What is the expected timeline for the State to submit the waiver request to DOL?</p> <p>2). What is the expected timeline for DOL to make a recommendation to the State on the proposed waiver?</p>	These questions are included to fully report all comments questions received. However, they do not specifically relate to the content of the waivers and these questions will be answered as the submittal timeline is defined.

III. Updates

- **DOL Extension of State WIA Strategic Plan for Program Year 2010-2011**
- **Comments Received – Eligible Training Provider List (ETPL) Initial Eligibility Determination for Postsecondary Educational Institutions and Entities Carry Out Apprenticeship Programs**
- **Work Readiness Indicator Waiver: Summer Youth Activities**
- **Program Design Flexibility Waiver: Summer Youth Activities**

IV. Public Comment

V. Other Business